

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

REGINALD EDWIN BOSSIER

PLAINTIFF

V.

CIVIL ACTION NO. 1:08cv408-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

**ORDER**

This order addresses the United State's Magistrate Judge's [135] Order denying Plaintiff's [73] Motion for Sanctions under Fed. R. Civ. P. 37(b). Plaintiff now files a [154] Motion for Review of that order. This Court considers Plaintiff's objections under the standard set forth in Fed. R. Civ. P. 72(a): any portion of the Magistrate Judge's order shall be modified or set aside if it is found to be clearly erroneous or contrary to law.

Plaintiff primarily takes umbrage at what he perceives as the Magistrate's "holding placing the burden on counsel for Plaintiff for [Defendant's] non-production" of certain documents. The Court understands that these documents are not related specifically to the instant cause of action.

Plaintiff also takes exception to the Magistrate focusing solely on whether to impose default judgment on Defendant as a sanction under Rule 37. However, a reading of Plaintiff's original [73] motion clearly shows that he was seeking "the most severe sanction available" as "the most appropriate sanction to award." Any award of attorney's fees and expenses were to be "[i]n addition to default judgment and contempt citation . . . ."

In light of this, the Magistrate can hardly be blamed for considering the sanction of default judgment only. The Court agrees with the Magistrate that the record "fails to support a finding that Defendant has willfully or in bad faith refused to comply with the Court's order" and with his finding "that this case fails to present the 'extreme circumstances' which would justify entry of default judgment."

As Plaintiff acknowledges, the trial court has considerable discretion in matters relating to discovery. The Magistrate also found that the discovery sought is obtainable from some other source and that Plaintiff has had ample opportunity by discovery in the action to obtain the information sought. This Court has already expressed concern about the scope of this litigation and the need to concentrate on Plaintiff's particular claim, and determines that no sanction under Fed. R. Civ. P. 37(b) is appropriate arising from Plaintiff's [73] motion.

Accordingly, **IT IS ORDERED:**

The [135] Order of the United States Magistrate Judge denying Plaintiff's [73] Motion for Sanctions is **AFFIRMED**;

The [154] Objection to Magistrate Judge's Order is **DENIED**;

**SO ORDERED** this the 15<sup>th</sup> day of October, 2009.

s/ L. T. Senter, Jr.  
L. T. SENTER, JR.  
SENIOR JUDGE